



Arizona Regulatory Board of Physician Assistants

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Janet Napolitano
Governor
Albert Ray Tuttle, P.A.-C
Chairman
Timothy C. Miller, J.D.
Executive Director

FINAL MINUTES FOR REGULAR SESSION MEETING Held at 1:00 p.m. on May 17, 2006 9535 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Albert Ray Tuttle, P.A.-C, Chair
Joan M. Reynolds, P.A.-C, Vice Chair
Randy D. Danielsen, Ph.D., P.A.-C
Michael E. Goodwin, P.A.-C
James Edward Meyer, M.D.
Sigmund Popko, J.D., Public Member
Anna Marie Prassa, Public Member
Peter C. Wagner, D.O.
Kelli M. Ward, D.O., M.P.H., FACOFP
Barry D. Weiss, M.D., FAAFP

Wednesday, May 17, 2006

CALL TO ORDER

Albert Ray Tuttle, P.A.-C, Chair called the Meeting to Order at 1:00 p.m.

ROLL CALL

The following Board Members were present: Albert R. Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James E. Meyer, M.D., Sigmund Popko, J.D., Anna M. Prassa, Peter C. Wagner, D.O., Kelli M. Ward, D.O., M.P.H., FACOFP, Barry D. Weiss, M.D. The following Board Members were not present: Sigmund Popko, J.D., Anna Marie Prassa

CALL TO THE PUBLIC

There was no one present for the call to the public.

Executive Director's Report

Media Relations Office Report-Administration Division

Timothy Miller, J.D., Executive Director announced the second edition of the Primum newsletter was complete and the Board has received positive feedback regarding both the content of the newsletter and the method in which it is sent out (e-mail).

Randy Danielsen, Ph.D., P.A.-C commented that the Health Alerts currently being sent out by ARBoPA staff member Roger Downey were helpful and should be continued.

Michael E. Goodwin, P.A. said he noticed the newsletter referred to actions taken against supervising physicians and asked that Mr. Miller bring those cases to the P.A. Board's attention at each Board meeting in the future.

Quality Control Division Report & Physician Health Program Case Inflow

Mr. Miller said the Agency will be obtaining a new database and will also be implementing on-line renewals and on-line applications for licensees. Mr. Miller stated the licensees will also have the ability to change information on their profiles on line.

Mr. Miller said the Agency is continuing to develop ideas on how to best create and operate the Physician Health Program (PHP), but the interim process has been working in that there has been a 55% increase in self-reporting by licensees.

Investigations Office Report-Regulations Division

Mr. Miller said Agency Staff has reduced the ARBoPA case load by 57% in one year while also reducing the time it takes to complete an investigation from approximately 320 days to 160 days.

Legislation Report

Mr. Miller highlighted several bills relating to health care for the Board, including three bills that died in legislature and three bills vetoed by the Governor. Mr. Miller also spoke on three bills signed by the Governor including:

1. A bill that requires that laboratories that conduct tests to directly bill the patient or payer rather than passing the bill back through the referring health care provider and making it an act of unprofessional conduct for a health care professional to direct a laboratory to direct the bill through them.
2. A bill that requires licensing boards to retrieve, store, distribute and destroy abandoned medical records, and makes it a crime to abandon medical records. Mr. Miller said this bill would place a hardship on the agency as the bill does not allow for any additional funding for the Board to complete this large task.
3. The Arizona Medical Board's Omnibus bill.
4. A bill requiring the Board to remove pending complaints from a licensee's profile.

Formation of Subcommittee to Revise PA Rules

The following Board members volunteered to serve on the Physician Assistant Rules Subcommittee: Randy Danielsen, Ph.D., P.A.- C., James E. Meyer, M.D., Joan Reynolds, P.A.-C, Albert R. Tuttle, P.A.-C., Kelli Ward, D.O., M.P.H., FACOF

Approval of Minutes

MOTION: Randy Danielsen, Ph.D., P.A.-C moved to accept the March 1, 2006 Meeting Minutes, including the Executive Session Minutes.

SECONDED: Kelli M. Ward, D.O., M.P.H., FACOF

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent

MOTION PASSED.

MOTION: Randy Danielsen, Ph.D., P.A.-C moved to approve the March 16, 2006 Summary Action Meeting Minutes.

SECONDED: Kelli M. Ward, D.O., M.P.H., FACOF

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent

MOTION PASSED.

NON-TIME SPECIFIC ITEMS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT	LIC. #	RESOLUTION
1.	PA-04-0045A	ARBOPA VALENTINE OKON, P.A.	2363	Advisory Letter for failure to report change in supervising physicians.

Patricia McSorley, Manager, Office of Investigations summarized the case for the Board. Ms. McSorley stated that Valentine Okon, P.A. failed to report to the Board that his supervisory relationship had ended and upon Staff's investigation, it was discovered there were several other physicians with whom P.A. Okon had terminated his relationship. P.A. Okon said he was unaware he was required to report the terminations to the Board.

MOTION: Joan M. Reynolds, P.A.-C moved to issue an Advisory Letter for failure to report change in supervising physicians.

SECONDED: James E. Meyer, M.D.

Kelli M. Ward, D.O., M.P.H., FACOF said she would like Staff to include in the resolution letter to P.A. Okon a suggestion that he review all of the Arizona Regulatory Board of Physician Assistants Rules because she said she was concerned that if he did not know the rule in this case, he may not know the other governing rules.

Timothy Miller, J.D., Executive Director said the Agency is developing a mini course over the internet to make licensees aware of the rules. Additionally, Mr. Miller said there will be a list of the 10 most common complaints on the website and included in the application packets, since this type of complaint is fairly recurrent.

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT	LIC. #	RESOLUTION
2.	PA-05-0034A	ARBOPA STEVEN J. KING, P.A.	2697	Refer the case to Formal Hearing for Revocation.

Maricarmen Martinez, Senior Medical Investigator summarized the case for the Board stating P.A. King prescribed for and treated patients while he did not have a supervising physician.

Christine Cassetta, Board Legal Counsel advised the Board they could combine this case with P.A. King's other open case (PA-05-0012A) and refer them both to Formal Hearing.

MOTION: Michael E. Goodwin, P.A. moved to refer the case to Formal Hearing for Revocation.

SECONDED: Peter C. Wagner, D.O.

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RESOLUTION
3.	PA-05-0017A	ARBOPA	GARY D. BOWEN, P.A.	1854	Advisory Letter for failing to obtain informed consent prior to surgery.

Mark Nanney, M.D., Chief Medical Consultant summarized the case for the Board stating there was a deficiency in PA Bowen's medical records regarding the lack of an informed consent form.

Barry Weiss, M.D. said he believed PA Bowen should not have operated in this case as he believed PA Bowen was doing a difficult procedure not usually performed by a physician assistant. However, he noted PA Bowen was appropriately supervised by a physician and the physician said PA Bowen has removed these types of lesions in the past.

MOTION: Joan M. Reynolds, P.A.-C moved to issue an Advisory Letter for failing to obtain informed consent prior to surgery.

SECONDED: Michael E. Goodwin, P.A.

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RESOLUTION
4.	PA-05-0033A	ARBOPA	MARTI NEAVE, P.A.	1396	Advisory Letter for failure to maintain adequate medical records.

Marti Neave, P.A. was present and spoke during the Call to the Public. P.A. Neave said patient H.H. had a history of being non-compliant. She said H.H. brought the skin lesion to her attention during a routine office visit. P.A. Neave said she suspected the lesion was benign and treated it with cryotherapy. She said H.H. returned and she performed cryotherapy on the lesion again. P.A. Neave admitted she did not document the two treatments of cryotherapy. P.A. Neave said a dermatologist later diagnosed the lesion as squamous cell carcinoma and H.H. expired. P.A. Neave said she did not believe she was responsible for the death of H.H. as cryotherapy is an acceptable treatment for squamous cell carcinoma.

Mark Nanney, M.D., Chief Medical Consultant summarized the case. Dr. Nanney said P.A. Neave did not describe H.H.'s lesion or therapy in the medical record for two visits. Dr. Nanney said the Outside Medical Consultant found P.A. Neave's treatment was within the standard of care, but medical records were inadequate.

MOTION: Randy Danielsen, Ph.D., P.A.-C moved to issue an Advisory Letter for failure to maintain adequate medical records.

SECONDED: Kelli M. Ward, D.O., M.P.H., FACOFF

Barry Weiss, M.D. said it was possible the appropriate treatment was not provided to H.H. if P.A. Neave did not recognize the lesion was carcinoma, she may not have given the appropriate level of cryotherapy to kill squamous cell carcinoma.

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RESOLUTION
5.	PA-05-0012A	S.M.	STEVEN J. KING, P.A.	2697	Reject the consent agreement and refer the case to Formal Hearing for Revocation.

MOTION: Kelli M. Ward, D.O., M.P.H., FACOFF moved to accept the Consent Agreement for Decree of Censure and one year Probation for committing a felony.

SECONDED: Randy Danielsen, Ph.D., P.A.-C

James E. Meyer, M.D. said he was not in favor accepting the Consent Agreement because he felt it was too light a reprimand in that the P.A. committed a felony by own admission, although he was not convicted. Christine Cassetta, Board Legal Counsel said a conviction is not necessary for the Board to take action for a felony as the P.A. Statute A.R.S. §32-2501(21)(u) states "committing a felony" – a conviction is not necessary for Board action.

Kelli M. Ward, D.O., M.P.H., FACOFF withdrew her Motion.

MOTION: Barry Weiss, M.D. moved to reject the consent agreement and refer the case to Formal Hearing for Revocation.

SECONDED: James E. Meyer, M.D.

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RESOLUTION
6.	PA-03-0036A	ARBOPA	JAN HUGHES, P.A.-C	2572	Accept the Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for prescribing violations; performing health care tasks without a supervising physician; making a false statement and one year Probation to obtain 20 hours CME in ethics at PACE.

MOTION: Kelli M. Ward, D.O., M.P.H., FACOFP moved to accept the Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for prescribing violations; performing health care tasks without a supervising physician; making a false statement and one year Probation to obtain 20 hours CME in ethics at PACE.

SECONDED: Michael E. Goodwin, P.A.

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
1.	PA-04-0048A	ARBOPA	KEVIN EARLYWINE, P.A.	2140	Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure for failing to maintain adequate records on a patient, failing to use and affix the initials P.A.-C, inappropriate prescribing of opiates, failing to provide information to the Board in a timely manner and for falling below the standard of care by not obtaining a pain contract and not conducting urine drug screens.

Kevin Earlywine, P.A. was present with council Mr. Andrew Plattner.

Randy Danielsen said he had some earlier conversation with Mr. Earlywine, but it will not affect his ability to adjudicate the case.

Kelly Sems, M.D., Medical Consultant summarized the case for the Board. Dr. Sems said Staff's investigation found P.A. Earlywine failed to maintain adequate records on patient C.K., failed to use and affix the initials P.A.-C., inappropriately prescribed opiates and failed to provide information to the Board in a timely manner.

Michael E. Goodwin, P.A. led the questioning. P.A. Goodwin noted P.A. Earlywine is in a fairly populous area and is not up in the mountains in a remote location as it appears to be indirectly alleged from his response. P.A. Goodwin noted it was PA Earlywine's testimony that he was the primary care provider for patient C.K. and she was also under the care of specialists. He also noted that P.A. Earlywine's supervisory physician Steven Cervi-Skinner, M.D. had never seen C.K.

P.A. Earlywine said he did not treat patients or sign prescriptions from the time he left the practice of his previous supervising physician (Dr. Crawford) until the time he opened his own practice under the supervision of Dr. Cervi-Skinner. Kelli M. Ward, D.O., M.P.H., FACOFP noted there was a pharmacy error in that a prescription written by Dr. Crawford was filled out with P.A. Earlywine's name.

P.A. Earlywine said there was a one month period of time in which he did not catch his transcriptionist's oversight of not placing the abbreviation "P.A." after his name. P.A. Earlywine also said he was not aware his staff was referring to him as "Dr. Earlywine" over the phone, but said he has instructed staff not to do so. P.A. Earlywine said his supervising physician Dr. Cervi-Skinner has not seen any of the patients in his practice because P.A. Earlywine's office is in the white mountains of Arizona and Dr. Cervi-Skinner works in Mesa, Arizona. However, P.A. Earlywine said he meets with Dr. Cervi-Skinner once a week, but has missed meetings with Dr. Cervi-Skinner on a couple of occasions. P.A. Earlywine said Dr. Cervi-Skinner has never seen his office or staff other than in pictures. P.A. Earlywine said he occasionally sees children and conducts gynecology visits although Dr. Cervi-Skinner does not see those types of patients in his practice. Peter C. Wagner, D.O. noted it was P.A. Earlywine's testimony that Dr. Cervi-Skinner fills the narcotic prescriptions of the patients in P.A. Earlywine's practice once a month although he does not see the patients. Dr. Wagner also noted the pharmacy records show P.A. Earlywine refills patient's narcotic prescriptions every 14 days.

Peter C. Wagner, D.O. noted the statute dictates that the physician assistant must meet with his supervisor face to face each week, and it does not allow any excuse for failure to meet. James E. Meyer, M.D. noted P.A. Earlywine obtained Board approval that his supervisor would practice in a geographically remote location from him at the time Dr. Cervi-Skinner was approved as his supervising physician.

Kelli M. Ward, D.O., M.P.H., FACOFP said it appeared P.A. Earlywine is functioning as a physician as he is in the practice on his own and is the only practitioner who has seen the patients.

Vicki Johansen, Senior Medical Investigator said Staff did not receive medical records from P.A. Earlywine's office in a timely manner as they did not receive the complete set of medical records initially. P.A. Earlywine said he instructed his staff to send the complete record and believes they did so. P.A. Earlywine said his office has since sent any additional records requested by Board Staff.

Kelly Sems, M.D., Medical Consultant noted a deviation in that P.A. Earlywine had a pain contract signed by patient five months after pain treatment was being given. Dr. Sems said P.A. Earlywine should have issued the contract before any treatment occurred.

Mr. Plattner said, in defense of P.A. Earlywine, that the Board authorized PA Earlywine to have a supervising physician in the Valley. Mr. Plattner also alleged he and his client were not given all the Board's materials during the investigation. He said P.A. Earlywine made an unintentional error by not noticing the abbreviation P.A.-C was not at the end of his name on the dictations. Mr. Plattner said it was their belief that they did provide the complete set of medical records to Board Staff when requested.

Christine Cassetta, Board Legal Counsel said PA Earlywine was provided a CD containing all the Board materials for this case in January 2006 and there was no information withheld by the Board.

MOTION: Michael E. Goodwin, P.A. moved to find unprofessional conduct in violation of A.R.S. §32-2501(21)(s)-Prescribing, dispensing or administering any controlled substance or prescription-only drug for other than accepted therapeutic purposes. A.R.S. §32-2501(21)(m)-Failing to use and affix the initials "P.A." or "P.A.-C." after the physician assistant's name or signature on charts, prescriptions or professional correspondence. A.R.S. §32-2501(21)(p)-Failing or refusing to maintain adequate records on a patient. A.R.S. §32-2501(21)(z)-Failing to furnish legally requested information to the board or its investigator in a timely manner. A.R.S. §32-2501(21)(a)- Violation of any federal or state law or rule that applies to the performance of health care tasks as a physician assistant. Conviction in any court of competent jurisdiction is conclusive evidence of a violation. A.R.S. §32-2534(A)-A physician assistant shall not perform health care tasks until the supervising physician receives approval of the notification of supervision from the Board.

SECONDED: Barry Weiss, M.D.

The Board went into Executive Session 2:09 p.m.
The Board returned to Open Session at 2:35 p.m.

P.A. Goodwin said he wished to amend his motion to include A.R.S. §32-2532(C). Dr. Wagner asked if P.A. Goodwin would also include A.R.S. §32-2501(21)(j) to the motion because he said he felt P.A. Earlywine conducted himself in a way that was harmful to the patient in that he did not obtain a pain contract at the beginning of treatment and there was patient harm in that C.K. was hospitalized for confusion that was most likely secondary to the medications.

MOTION: Michael E. Goodwin, P.A. moved to amend the motion to include A.R.S. §32-2532(C)- Unless certified for fourteen day prescription privileges pursuant to section §32-2504 subsection A, a physician assistant shall not prescribe a schedule II or III controlled substance for a period exceeding 72 hours. For each schedule IV or schedule V controlled substance, a physician assistant may not prescribe the controlled substance more than five times in a six month period for each patient, and A.R.S. §32-2501(j)- Any conduct or practice that is harmful or dangerous to the health of a patient or the public.

SECONDED: Barry Weiss, M.D.

VOTE: 6-yay, 2-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

MOTION: Michael E. Goodwin, P.A. moved to issue a Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure for failing to maintain adequate records on a patient, failing to use and affix the initials P.A.-C, inappropriate prescribing of opiates, failing to provide information to the Board in a timely manner and for falling below the standard of care by not obtaining a pain contract and not conducting urine drug screens.

SECONDED: Kelli Ward, D.O.

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Albert R. Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James E. Meyer, M.D., Sigmund Popko, J.D., Anna M. Prassa, Peter C. Wagner, D.O., Kelli M. Ward, D.O., M.P.H., FACOF, Barry D. Weiss, M.D. The following Board Members voted against the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy Danielsen, Ph.D., P.A.-C The following Board Members were not present: Sigmund Popko, J.D., Anna Marie Prassa

VOTE: 5-yay, 3-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

MOTION: Barry Weiss, M.D. moved to withdraw the Board's approval for a geographically remote supervisory relationship, now or in the future, and that the current relationship end within 10 calendar days.

SECONDED: Kelli M. Ward, D.O., M.P.H., FACOF

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.

MOTION: Randy Danielsen, Ph.D., P.A.-C moved to amend the Order to Withdraw the Board's approval for a geographically remote supervisory relationship and that the current relationship end within 10 calendar days.

SECONDED: Joan M. Reynolds, P.A.-C

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

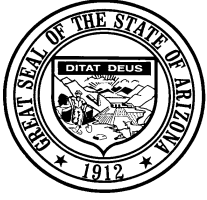
MOTION PASSED.

MOTION: Kelli M. Ward, D.O., M.P.H., FACOFP moved to open case on Dr. Cervi-Skinner.

SECONDED: James E. Meyer, M.D.

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent

MOTION PASSED.



A handwritten signature in black ink, appearing to read "T. C. Miller".

Timothy C. Miller, J.D., Executive Director